

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 310**

Introduced by Vargas, 7; Howard, 9; Lindstrom, 18.

Read first time January 15, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Nebraska Job Creation and Mainstreet
- 2 Revitalization Act; to amend section 77-2906, Reissue Revised
- 3 Statutes of Nebraska; to provide a deadline for the determination of
- 4 the amount of tax credits; to change provisions relating to appeals;
- 5 and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2906, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 77-2906 (1)(a) ~~(1)~~ Within twelve months after the date on which the  
4 historically significant real property is placed in service, a person  
5 whose application was approved under section 77-2905 shall file a request  
6 for final approval containing all required information with the officer  
7 on a form prescribed by the officer and shall include a fee established  
8 by the officer pursuant to section 77-2907. The officer shall then  
9 determine whether the work substantially conforms to the application  
10 approved under section 77-2905. If the work substantially conforms and no  
11 other significant improvements have been made to the historically  
12 significant real property that do not substantially comply with the  
13 standards, the officer shall approve the request for final approval and  
14 refer the application to the department to determine the amount of  
15 eligible expenditures, calculate the amount of the credit, and issue a  
16 certificate to the person evidencing the credit. If the work does not  
17 substantially conform to the approved application or if other significant  
18 improvements have been made to the historically significant real property  
19 that do not substantially comply with the standards, the officer shall  
20 deny the request for final approval and provide the person with a written  
21 explanation of the decision. The officer shall make a determination on  
22 the request for final approval in writing within thirty days after the  
23 filing of the request. If the officer does not make a determination  
24 within thirty days after the filing of the request, the request shall be  
25 deemed approved and the person may petition the department directly to  
26 determine the amount of eligible expenditures, calculate the amount of  
27 the credit, and issue a certificate evidencing the credit.

28 (b) The department shall determine the amount of eligible  
29 expenditures, calculate the amount of the credit, and issue one or more  
30 certificates evidencing the credit within sixty days after referral of  
31 the application to the department by the officer or the filing of a

1 petition pursuant to subdivision (1)(a) of this section. The person  
2 filing the request for final approval and the department may also agree  
3 to extend the sixty-day period, but such extension shall not exceed an  
4 additional thirty days. If the department does not determine the amount  
5 of eligible expenditures, calculate the amount of the credit, and issue  
6 one or more certificates evidencing the credit within such sixty-day  
7 period or agreed-upon longer period, the credit shall be deemed to have  
8 been issued by the department for the amount requested in such person's  
9 request for final approval, except that such amount shall not exceed one  
10 hundred ten percent of the amount of credits allocated by the officer  
11 under section 77-2905 and such amount shall not increase or decrease the  
12 total amount of credits that may be allocated by the officer under  
13 section 77-2905 in any calendar year.

14 (c) Any denial of a request for final approval by the officer or any  
15 determination of the amount of eligible expenditures or calculation of  
16 the amount of the credit by the department pursuant to this section may  
17 be appealed, and the appeal shall be in accordance with the  
18 Administrative Procedure Act.

19 (2) The department shall divide the credit and issue multiple  
20 certificates to a person who qualifies for the credit upon reasonable  
21 request.

22 (3) In calculating the amount of the credits to be issued pursuant  
23 to this section, the department may issue credits in an amount that  
24 differs from the amount of credits allocated by the officer under section  
25 77-2905 if such credits are supported by eligible expenditures as  
26 determined by the department, except that the department shall not issue  
27 credits in an amount exceeding one hundred ten percent of the amount of  
28 credits allocated by the officer under section 77-2905. If the amount of  
29 credits to be issued under this section is more than the amount of  
30 credits allocated by the officer pursuant to section 77-2905, the  
31 department shall notify the officer of the difference and such amount

1 shall be subtracted from the annual amount available for allocation under  
2 section 77-2905. If the amount of credits to be issued under this section  
3 is less than the amount of credits allocated by the officer pursuant to  
4 section 77-2905, the department shall notify the officer of the  
5 difference and such amount shall be added to the annual amount available  
6 for allocation under section 77-2905.

7 (4) The department shall not issue any certificates for credits  
8 under this section until the recipient of the credit has paid to the  
9 department a fee equal to one-quarter of one percent of the credit  
10 amount. The department shall remit such fees to the State Treasurer for  
11 credit to the Civic and Community Center Financing Fund.

12 (5) If the recipient of the credit is (a) a corporation having an  
13 election in effect under subchapter S of the Internal Revenue Code of  
14 1986, as amended, (b) a partnership, or (c) a limited liability company,  
15 the credit may be claimed by the shareholders of the corporation, the  
16 partners of the partnership, or the members of the limited liability  
17 company in the same manner as those shareholders, partners, or members  
18 account for their proportionate shares of the income or losses of the  
19 corporation, partnership, or limited liability company, or as provided in  
20 the bylaws or other executed agreement of the corporation, partnership,  
21 or limited liability company. Credits granted to a partnership, a limited  
22 liability company taxed as a partnership, or other multiple owners of  
23 property shall be passed through to the partners, members, or owners,  
24 respectively, on a pro rata basis or pursuant to an executed agreement  
25 among the partners, members, or owners documenting any alternate  
26 distribution method.

27 (6) Subject to section 77-2912, any credit amount that is unused may  
28 be carried forward to subsequent tax years until fully utilized.

29 (7) Credits allowed under this section may be claimed for taxable  
30 years beginning or deemed to begin on or after January 1, 2015, under the  
31 Internal Revenue Code of 1986, as amended.

1           Sec. 2.   Original section 77-2906, Reissue Revised Statutes of  
2 Nebraska, is repealed.